UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/51/917
1 July 1997

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 40

THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

Assessment of the peace process in El Salvador

Report of the Secretary-General

I. INTRODUCTION

1. As the General Assembly will recall, my predecessor submitted a report on the status of implementation of the peace accords in El Salvador on 25 November 1996 (A/51/693). In is resolution 51/199 of 17 December 1996, the Assembly decided, inter alia, that the responsibilities of verification and good offices entrusted to the United Nations should be executed through periodic visits to El Salvador by a high-level envoy from New York, assisted for a six-month period by a small support unit in the field. Pursuant to that decision, I have dispatched Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs, to El Salvador on a number of occasions to hold meetings with the President, the Frente Farabundo Martí para la Liberación Nacional (FMLN) and other key political actors and report back to me on his verification and good offices activities.

2. The present report provides an account of the current status of implementation of the peace accords. However, its principal purpose, in accordance with the request of the General Assembly to that end, is to provide an assessment of the peace process in El Salvador. This has been prepared on the basis of an evaluation of the level of achievement of the general objectives established by the Government of El Salvador and the FMLN in the Geneva Agreement of 4 April 1990 (A/45/706-S/21931, annex I) - to end the armed conflict by political means; to promote the democratization of the country; to guarantee unrestricted respect for human rights; and to reunify Salvadorian

society - and implementation of the specific mechanisms defined by the parties to reach these goals in the peace agreements signed at Chapultepec Castle in Mexico City on 16 January 1992 (A/46/864-S/23501, annex), complementary accords and subsequent agreements and timetables.

3. Between 26 July 1991 and 30 April 1995, verification of the accords was undertaken by the United Nations Observer Mission in El Salvador (ONUSAL), under mandates of the Security Council. Subsequently, the Organization's responsibility in this area passed to the General Assembly. Accordingly, a number of mechanisms, whose size decreased with the progressive implementation of the accords, were established under its mandates: the Mission of the United Nations in El Salvador (MINUSAL, 1 May 1995-30 April 1996); the United Nations Office of Verification in El Salvador (ONUV, 1 May-31 December 1996); and the current arrangement of a support unit for my envoy.

4. In addition to this introduction, the present report is divided into sections covering: military aspects; public security; questions related to human rights and the administration of justice; socio-economic issues; electoral matters; technical assistance; administrative aspects; and observations and recommendations.

II. MILITARY ASPECTS

5. The commitments undertaken by the parties in this sphere included cessation of the armed conflict; separation of the forces; demobilization and the destruction of the weapons of FMLN; reduction of the armed forces in line with peacetime requirements; and reform of the institution on the basis of a profound revision of military doctrine and changes to its educational system. The advances made in this area constitute one of the most important achievements of the peace process.

6. The successful completion of the phases of ceasefire and separation of forces, which was marked by a ceremony on 15 December 1992, was a necessary prerequisite for progress in many other areas of the peace accords. The subsequent discovery, in May 1993, of clandestine arms caches belonging to component organizations of FMLN in neighbouring countries as well as El Salvador represented a serious violation of the peace accords. However, the political maturity with which the parties, and especially the Government, addressed the situation ensured that the peace process did not enter into a more serious crisis and that implementation of the accords could continue.

7. El Salvador now has an army that has been through the difficult process of reduction and institutional transformation provided for by the peace accords. It is a very different force from the military of the past, characterized as it was by impunity and the systematic violation of human rights. Constitutional reforms have confined the armed forces to the provision of defence against external threats to security; they now play only a subsidiary role in the preservation of internal order, save in exceptional circumstances. As a result, they have gained regional and international recognition for the discipline with which they have submitted to civilian authorities and accepted the mandate assigned them by the peace accords. The professionalism of the role the army

now plays in national life was made clear by its comportment during the electoral process of March 1997: in marked contrast to the record of military interference in the history of El Salvador, the army demonstrated its respect for the democratic decision of the Salvadorian people that those elections represented.

III. PUBLIC SECURITY

8. Before the signing of the peace agreements, public security functions were carried out by bodies dependent on the armed forces. Their actions were principally directed towards social control through the support they lent to military operations, intelligence activities and collaboration with the clandestine activities of paramilitary groups. The need to reform relations between Salvadorian society and the coercive powers of the State led the parties to agree to introduce an entirely new institutional model for the country's public security. The accords therefore provided for the creation of the National Civil Police as the sole police body with national functions, enshrined within democratic principles and as a guarantee of the free exercise of the rights of the citizens of El Salvador. Its members were to be trained in the new National Public Security Academy.

9. Five years after the beginning of this profound reform of the country's public security structures, a transformation is evident. The National Civil Police constitutes a qualitative change in the institutional structure of the country, unprecedented in its history. The numerical goals established by the peace accords have been surpassed and the new police force now consists of 15,000 agents stationed throughout the country. However, although the National Civil Police is a professional public security body with the potential to execute modern and democratic public security policies, the model established by the peace accords has not been consolidated without the occurrence of distortions.

10. From the beginning, there were various obstacles impeding the implementation of the new model. Moreover, the establishment and development of the National Civil Police were undertaken against the background of a dramatic rise in the level of violent and other crime that would have tested a mature police force to the full. This has seriously complicated the challenges facing the National Civil Police and contributed to a high rate of casualties among its agents. Meanwhile, the response of the authorities to the crisis caused by the crime wave has not always been characterized by a firm commitment to the strengthening of the new police force. Increased pressure for a more extensive police presence led to the recruitment and training of personnel in the National Public Security Academy being carried out in emergency conditions that were only exacerbated by poor coordination between the Academy and the National Civil Police. Moreover, short cuts have been taken that have come perilously close to practices of the past. Criminal investigation by groups at the margin of the institutional structure of the National Civil Police has been fostered while the Department of Investigation of Organized Crime, one of the most promising initiatives in the efforts of the National Civil Police to combat impunity, has been substantively weakened; on various occasions, the army has been called upon to undertake functions of internal security; and, until the personal

intervention of the President of the Republic led to this initiative being abandoned, efforts were made to establish neighbourhood groups (juntas de vecinos) reminiscent of structures of the past. In the legislative sphere, emergency legislation concealing the weakness of police procedures was approved and a proposal was made to reintroduce the death penalty for certain crimes.

11. The strengthening of the regulatory machinery of the National Civil Police faced problems from the start. The Control Unit, the Disciplinary Investigations Unit, the Disciplinary Tribunal and the Inspector General of the National Civil Police never managed to establish themselves as guarantors of the transparency of police procedures, or of the application of appropriate discipline. Effective coordination is lacking as the basis for their work, not only among themselves, but also with other State entities.

12. At present, the individual commitments contained in the peace accords have been virtually completed. An important exception is the maintenance of the exceptional regime by which police personnel are housed in barracks, rather than living among the civilian population as provided for in the accords, in recognition of the civilian nature of the new police force. However, in view of the importance of public security to the process of democratic consolidation, the problems outlined in the paragraphs above should be corrected as soon as possible.

13. It was in response to one of the recommendations contained in an evaluation of the public security sector prepared by MINUSAL in September 1995 that the President of the Republic, in January 1996, decided to form a National Council of Public Security to oversee developments within the sector and provide him with advice as the country develops an integrated policy and institutional framework in the area. Although the Council was initially slow to establish its presence, in recent months it has appointed a team of advisers and initiated important projects aimed at improving the statistical database and information-gathering of the National Civil Police and strengthening its capacity for professional and scientific criminal investigation.

14. It is to be regretted, however, that the authorities within the sector are seeking the approval of the Legislative Assembly to modify some of the essential norms in the functioning of the National Civil Police and the National Public Security Academy without the necessary technical study or discussion of their implications. At the same time, the creation of a rural police force has been proposed, so far without sufficient definition in terms of whether it is to form a part of the National Civil Police, as the peace accords stipulate, or constitute a separate force, which would be in violation of the accords and the Constitution. It is to be hoped that the National Council of Public Security will continue to study these issues carefully and take steps to transform itself into an effective channel for the participation of distinct sectors of society in the preparation of a national public security policy.

15. International cooperation through technical assistance has made a fundamental contribution to the development of the new police force in El Salvador. Without this timely financial and technical support, it would not have been possible to attain the current level of advances in this area. However, there is still a need to reinforce efforts to achieve coordinated

technical assistance consistent with the objectives outlined in the peace accords.

IV. HUMAN RIGHTS AND THE ADMINISTRATION OF JUSTICE

A. Human rights

16. The process that was initiated with the signing of the peace accords introduced a period of radical change in the respect for human rights in El Salvador. Massive human rights violations no longer occur. The systematic practice of forced disappearances, torture, the holding of prisoners incommunicado, acts of terrorism and summary and arbitrary executions on political grounds is a thing of the past. In an atmosphere of greater tolerance and pluralism conditions exist in which non-governmental human rights organizations can freely go about their work. The democratic freedoms of expression, of association and of public organization, as well as the exercise of political rights, have been substantively strengthened.

17. In compliance with provisions of the peace accords, El Salvador has ratified various international treaties on human rights and has recognized, with reservations, the competence of the Committee against Torture, the Human Rights Committee and the Inter-American Court of Human Rights. Constitutional and legal reforms have been approved in order to assure the protection of human rights and guarantees of due process. However, recommendations of the Commission on the Truth and ONUSAL's Human Rights Division to ratify such international treaties as the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and Conventions Nos. 87 and 98 of the International Labour Organization have not been complied with.

18. After a somewhat hesitant start, the National Counsel for the Defence of Human Rights, which was one of the key institutions to be created by the peace accords, was established with offices in each of the country's departments. Over time, the office of the National Counsel has built up a high level of public recognition. Particularly during the tenure of its current incumbent, it has made a valiant effort to comply with its mandate to oversee the action of the State and counter possible abuses of power, despite the obstacles with which it has been presented by the lack of political will of some government officials to respond adequately to its resolutions and recommendations. However, it is to be regretted that future consolidation of the office of the National Counsel, an institution essential for the democratic strengthening of the State and society, may be jeopardized by the fact that its budget for the current year was cut significantly, rather than being reinforced as my predecessor had recommended (A/51/693, para. 11).

19. Despite the substantial advances that have been recorded in the field of human rights, there have also been some steps backwards, including isolated cases of arbitrary executions and politically motivated threats. Moreover, the recommendations formulated by the Joint Group for the Investigation of Illegal Armed Groups having Political Motivations were not complied with by the Government, especially those that relate to the strengthening of a specialized unit within the National Civil Police to investigate these types of cases. In addition, the recent recurrence of assassinations with the appearance of

execution, which seem to have been carried out by groups outside the formal police structure dedicated to "social cleansing", has raised concern.

B. Administration of justice

20. The principal characteristic of the justice system at the time of the signing of the peace accords was its lack of independence and of the capacity to investigate and punish violations of human rights. Burdened by a hierarchical structure which imposed undue administrative duties on the Supreme Court of Justice, it was a system marked by serious levels of judicial corruption and lengthy delays. These structural deficiencies, which were a product of the system's subordination to the interests of groups holding military, political and economic power in the country, had generated a situation of impunity, injustice and legal insecurity.

21. The peace accords included an agenda of legal and institutional changes to overcome the system's structural weaknesses, but they did not lay out in extensive detail all that the situation would require. This failing, owing in no small measure to the hostility to the negotiations existing in the Supreme Court in place at the time, was later addressed by the Commission on the Truth. However, the parties assumed commitments directed towards guaranteeing the independence of judges, achieving prompt and efficient justice, overcoming impunity, and establishing a new and democratic process for the election and removal of the magistrates of the Supreme Court of Justice and the National Council of the Judiciary. It was also agreed to assign a percentage of the national budget to the judicial system in order to assure its economic independence, and measures such as the vetting of judges (depuración) and the establishment of a democratic judicial career structure were recommended.

22. Unfortunately, the considerable achievements in this direction, most notably the establishment of a new Supreme Court of Justice in 1994 made up of respected professionals and its subsequent demonstration of independence in a number of its decisions, have been clouded by persistent deficiencies in the judicial system which have contributed to its lack of credibility with the general population, among them the inefficiency of constitutional justice; the slow functioning of criminal justice, which has aggravated the situation of unsentenced prisoners and prison conditions in general; the concentration of administrative functions within the Supreme Court of Justice; the lack of development of a proper judicial career structure which would strengthen and stimulate officials of the sector; and the resistance which still exists within some sectors of the Government to respecting judicial decisions.

23. Over and above these difficulties, the greatest failing in this area is the lack of efficacy in the process of vetting judges and officials who are dishonest, incompetent or whose motivation has failed them. The Supreme Court of Justice and the National Council of the Judiciary have evaluated judges in a manner and at a pace which have not proved adequate to the gravity of the situation. The inability to make more substantial and bold progress in this endeavour represents a failure to comply with an indispensable condition for the structuring of a system which, coupled with an efficient police, would be capable of eradicating impunity and guaranteeing justice.

C. Commission on the truth

24. The Commission on the Truth was established to throw light on the most serious acts of violence that had occurred during the armed conflict. In its report of March 1993 (S/25500, annex), the Commission revealed or confirmed the truth about some cases of singular importance and made recommendations designed to strengthen State institutions, eradicate the structural causes of violence, overcome impunity, prevent the repetition of the violence of the past and bring reconciliation to society. It recommended a profound judicial reform that would give the judicial system the capacity to sanction violations of human rights; constitutional reforms in a number of areas; the strengthening of the National Counsel for the Defence of Human Rights; the adoption of reforms in the armed forces and in the public security sector; the investigation of illegal armed groups, or death squads; and concrete measures to achieve national reconciliation.

25. Those recommendations of the Commission on the Truth that were complied with were carried out after some notable delays. They were related to institutional and legislative change and included the ratification of some international treaties on human rights (see the relevant sections of the present report). Compliance with these recommendations of the Commission on the Truth doubtless represented an important reinforcement of the provisions contained in the peace accords in these areas. It is to be regretted, however, that more of the recommendations of the Commission were not heeded by the parties, especially the Government. A clear instance of the rejection of the findings of the Commission on the Truth was evident in the approval of a sweeping amnesty law a few days after the publication of the Commission's report. The speed with which it was rushed through the Legislative Assembly was evidence of the lack of political will to investigate and arrive at the truth by judicial means and punish those responsible.

26. The recommendations that were made in the area of national reconciliation were largely ignored. No measures were taken to recognize the good name of the victims, they received no moral or material compensation, no national monument was erected for them, and no national holiday was established in their memory. The recommendation to establish a forum for truth and reconciliation was similarly not complied with. In sum, a less than positive evaluation of the actions taken in response to the substantive recommendations of the Commission on the Truth is unavoidable. This represents a disappointing failure to respond to the unique opportunity represented by the Commission and its work to make important advances in the eradication of impunity and the furthering of a climate of national reconciliation.

D. Constitutional reforms

27. In compliance with the peace accords, the Legislative Assembly approved and ratified various reforms to the Constitution, which formalized the creation of the new institutions arising from the peace process and the transformation of others that were already in existence. However, another package of constitutional reforms was approved by one Assembly, but failed to be ratified

by its successor. These reforms reinforced the exercise of the right to defence and the presumption of innocence, invalidated extrajudicial confession, assigned competence to judges of the lower courts to rule on habeus corpus and amparo procedures and created the National Council of Lawyers and Notaries that was to be charged with the authorization and suspension of lawyers and notaries, removing this function from the Supreme Court of Justice. That these reforms were not ratified prevented compliance with important recommendations of the Commission on the Truth. There are also a number of recommended reforms which have not yet been considered, including the elevation to a constitutional level of fundamental human rights and the decentralization of the administrative functions of the Supreme Court of Justice.

28. Despite these unresolved issues, one must recognize the importance of the institutional transformation introduced by the constitutional reforms that have come into effect, including the assurance of the independence of the judiciary, the definition of the new mandate of the armed forces and the creation of the National Civil Police. For the first time in the history of El Salvador, the Constitution has been reformed through the democratic process that it has established for that purpose. This constitutes a landmark achievement of the peace process.

E. Legislative reforms

29. Before the signing of the peace accords, Salvadorian legislation reflected patterns of authoritarianism, inequality, insecurity and lack of protection of fundamental rights. The peace accords, the recommendations of the Commission on the Truth and those of ONUSAL's Human Rights Division established the need to reform legislation in order to bring it into line with the changed circumstances in the country. To this end, the legislature approved the Law of the National Counsel for the Defence of Human Rights, the Organic Law of the National Civil Police, the Organic Law of the Armed Forces, the Police Career Law, the Military Career Law and, most recently, the Criminal Code; the Code of Criminal Procedure and the Penitentiary Law. Various legislative decrees and special laws in the areas of the electoral system, the reintegration of ex-combatants, the protection of the war-wounded and public security were also approved. Obsolete and anti-democratic laws were reformed and overturned, and reforms were introduced in military legislation and in matters of judicial organization.

30. The approval of the Code of Criminal Procedure and Criminal Codes, which was not achieved until December 1996 and April 1997 respectively, was particularly noteworthy. Together they form the structure of a modern criminal system designed to ensure the independence and speed with which justice can be implemented, as well as transparency, due process and respect for fundamental rights and guarantees. The Criminal Code includes new crimes such as torture, forced disappearance and the violations of the laws of war and acknowledges that they are not subject to a statute of limitations. It also extends judicial authority for misdemeanours, delimiting police authority in this area; admits oral evidence in judicial processes; recognizes the inviolability of the right to a defence and establishes procedures for detentions that include basic guarantees and rules about the use of force and firearms by the police authorities. Finally, it regulates cautionary measures that might be used as a

substitute for prison and adopts a broad concept of victims that recognizes their basic rights and guarantees. In sum, the new criminal legislation, which is scheduled to come into force in 1998, represents a substantial and positive transformation of the country's criminal justice system.

31. Before the implementation of the peace accords in the legislative area can be completed, a number of essential aspects remain pending. Among them are the suppression of extrajudicial confession and the repeal of the Police Act of 1886, the revision and approval of legislation regulating the judicial career structure and constitutional justice, and the introduction of new military criminal and criminal procedures legislation. However, it should be recalled that, while the delay in the approval of some of the legislative reforms derived from the peace accords has been a persistent problem, the reforms approved in the course of the process helped transform and strengthen the legislative system; accelerated the phase of legislative reform that had been timidly initiated before the end of the conflict and permitted the initiation of a phase of modernization of the legislation in accordance with democratic standards.

V. SOCIO-ECONOMIC ISSUES

32. The peace accords included certain agreements regarding economic and social questions, but were much less detailed in this area than in others. Instead of tackling the underlying economic policy of the Government, they recognized the importance of sustained economic and social development to the consolidation of social peace and national reconciliation and included a "minimum platform" of commitments which would set this process in motion. Their concrete instruments and measures included resolutions regarding the agrarian problem; rural credit; measures to alleviate the social cost of structural adjustment; the promotion of development programmes to be financed by the international community; the formulation of a National Reconstruction Plan (NRP); and the creation of a Forum for Economic and Social Consensus-Building. Although structural economic change was not the objective of the accords, the sustainability of many of the measures contained in the "minimal platform" (such as reintegration) is linked to long-term development challenges and is consequently conditioned by broader issues of economic policy.

33. The National Reconstruction Plan was to be the principal governmental mechanism to assist the population considered to have suffered the most as a result of the conflict through programmes to promote the reincorporation of ex-combatants into the civil, institutional and political life of the country, as well as to benefit the war-disabled and families of civilian victims of the conflict. The plan's stated objectives also included poverty alleviation and the improvement of social services and the economic infrastructure in selected zones of the country. Under NRP, genuine progress in the area of national reconstruction and democratic strengthening has been made. However, this has been achieved against a background of broad concern about the absence of adequate mechanisms to ensure the participation of the beneficiaries in the design and execution of the programmes; a heavy emphasis on improvements in infrastructure; and the potentially contradictory impact of governmental stabilization and adjustment policies on poverty reduction programmes.

34. The Forum for Social and Economic Consensus-Building was to include representatives of the Government, the private sector and organized labour to debate and propose legislation relating to labour rights, wage issues, and broader socio-economic issues. However, the latter never became a focus of the Forum's activities, which for the most part concentrated on labour rights. In this area, the Forum successfully reached consensus regarding the ratification of 14 conventions of the International Labour Organization and some reforms to the Labour Code. The Forum halted its activities in December 1993 at the request of the private sector during the electoral period, and was never formally reactivated. While the reforms to the Labour Code were an important achievement, in the scope of its agenda and mandate, the Forum did not fulfil its original expectations.

A. Land transfer programme

35. One of the key mechanisms for the economic and social reintegration of the ex-combatants from both sides and the landholders (tenedores) from FMLN's civilian base in the former conflict zones was the land transfer programme (PTT). Subject to numerous delays, this has been the focus of sustained efforts and attention throughout the peace process. The delays were attributable to a variety of factors, including the time required by the parties to agree on mechanisms and conditions for the transfer of the land; the antiquated and extremely cumbersome legal procedures involved in the transfer; administrative bottlenecks, institutional resistance and lack of political will, particularly in some of the state agencies involved; and FMLN's difficulty in producing stable lists of beneficiaries. However, now that the land transfer programme is nearing completion it should be recognized as a notable achievement - one that required half a decade of work by numerous committed individuals, but which has allowed for the distribution of more than 140,000 manzanas of land to nearly 35,000 beneficiaries

36. In order to accelerate the process, the land was distributed in a form known as pro-indiviso, by which properties were transferred en bloc to a number of beneficiaries with equal shares of the property but without a specific plot assigned them. This generated a number of complications in both production and administration, giving rise to considerable uncertainty in the beneficiaries regarding the security of their tenure, and thus served as a disincentive to production and investment in the land they had been assigned. Furthermore, it contributed to the confusion surrounding debts, as a consequence of which accumulated financial obligations from different loans resulted in serious indebtedness with low rates of repayment. The May 1996 law on the restructuring of the agrarian debt offers forgiveness of 70 per cent of the land purchase debt, as well as a 5000-colón bonus for those who pay off the remaining 30 per cent within a year. While cancellation of the remaining 30 per cent has subsequently been agreed upon, it is important that a mechanism be found to respond to the severe burden imposed by the productive loans.

37. In July 1996, the Lands Bank began implementation of the national plan for land titling, which was scheduled for completion in December 1996. Although the full quota of transfers contemplated by the PTT have been carried out, the programme cannot be considered completed until the land has also been duly

inscribed in the land registry and land titles have been distributed to every beneficiary. As of 30 April 1997, 84 per cent of the land-titling plan had been completed, while a total of 5,822 new titles (16 per cent) were still to be distributed. Over 900 beneficiaries had received properties whose legal status was still unresolved. Concrete alternatives for these cases will need to be found.

38. The sluggish pace of title distribution as well as the unresolved status of the cases noted above is disheartening at this late stage in the process. It is of critical importance that there be no diminishing of national commitment to ensure the full completion of this programme. In this regard it is encouraging that a new executive unit to speed up implementation of the pending aspects of the programme has recently been set up. However, the success of this initiative can only be measured by its results. The Government's decision to begin to divide the pro-indiviso properties into plots during 1997 and the May 1996 law restructuring the agrarian debt will require that mechanisms be designed to distribute titles which reflect the total cancellation of the agrarian debt in the appropriate cases.

B. Reintegration

39. The economic and social reintegration of ex-combatants, of which the PTT forms a part, has been one of the most complex aspects of the peace accords. The permanent reintegration of ex-combatants into civilian life extends well beyond successful disarmament and is determined by whether or not there exist concrete, long-term options for obtaining a sustainable livelihood and participating in the social and political life of the country. In order to achieve objectives that transcend a simple reintegration into a context of rural poverty, programmes to provide support for the demobilized require an integral approach consisting of interdependent components such as credit, technical assistance and social and productive infrastructure. The mixed results of the Salvadorian experience indicate the need to design such programmes with sustainability in mind, particularly in post-conflict contexts where an emergency approach traditionally prevails.

40. A diverse number of programmes and projects financed by the international community were implemented to support the rural reintegration process, among them programmes for basic agricultural training for almost 10,431 ex-combatants from both sides, follow-up agricultural technical assistance programmes to aid ex-combatants in the formulation of productive farming strategies, training of local agricultural technical assistance promoters and programmes providing basic shelter and, subsequently, building materials for the construction of more permanent housing. A separate, integral programme to provide credit and technical assistance to 3,000 beneficiaries of the PTT in Usulután was financed by the European Union.

41. Direct financial assistance to the demobilized for the purchase of land, for agricultural production and, in some cases, for housing was considered an indispensable form of support to the process of reintegration. In the design of such programmes, it was decided that credit, under preferential conditions, was more desirable than donations or subsidies in order to foster among the

beneficiaries a credit-oriented rather than a dependent culture. However, ambiguities abounded regarding the use and conditions of the credit. Moreover, access to credit was chronically delayed to the detriment of a more direct link between credit and technical assistance programmes, which undermined the potential impact of both. Partly as a result of this failure in coordination, the technical assistance programmes did not achieve their goals. A study carried out by the United Nations Development Programme (UNDP) after the execution of the programmes indicated that they only reached approximately 25 per cent of the total PTT beneficiaries.

42. A major strategic study carried out jointly by UNDP and the Food and Agriculture Organization of the United Nations (FAO) indicates that under current conditions a significant portion of the beneficiaries' farming systems will be viable over the next five years only if they receive an additional, medium-term programme of support that includes locally based technical assistance, timely credit with special conditions, and social and productive infrastructure. In these circumstances the preparation of the Agrarian Code that was recommended by the peace accords and is still pending would be an important step forward in delineating policy towards the agricultural sector in general and to small farmers in particular. Without such a policy there is a danger that frustrated efforts at rural reintegration may be condemned to reproduce the marginality that was one of the origins of the conflict.

43. Programmes were also implemented to promote urban reintegration, among them the Government's industry and services programme which, through training, credit and technical assistance, aimed to provide support for establishing micro-enterprises and other small-business activities for 1,685 ex-combatants of FMLN and 3,097 demobilized members of the armed forces. An additional 1,200 ex-combatants, 500 from the armed forces and 700 from FMLN, received scholarships, largely for university studies, while other technical assistance programmes were made available to former members of the armed forces and the National Police. As with some of the rural reintegration programmes, efforts to provide immediate emergency programmes to respond rapidly to the reintegration needs meant that a number of the programmes suffered from important technical deficiencies in their design, with a negative effect on their impact.

C. Transfer of lands in excess of 245 hectares

44. The transfer of lands in excess of the constitutional limit of 245 hectares is another area of the peace accords in which implementation remains pending. Of 452 properties presented to the Salvadorian Institute for Agrarian Reform (ISTA) as potential cases of land surplus, 103 properties were transferred to beneficiaries prior to 1995. Growing tensions around unresolved or disputed property cases resulted in a number of peaceful land occupations in late 1995. Intervention by MINUSAL, as well as the National Counsel for the Defence of Human Rights, averted more heated confrontations, and the Joint National Group for 245 hectares, which included the participation of ISTA as well as the peasant organizations involved, was reactivated to resolve the cases under dispute. Of the 33 cases being investigated by the Joint Group, 32 remain unresolved, while one property has been identified as being in excess of the limit of 245 hectares. However, it is yet to be transferred. A further 57

cases are currently being reviewed by the United Nations. There is a need to move forward in the investigation process and to proceed promptly to transfer those properties in which an excess is identified in order to fulfil both constitutional obligations and the commitment undertaken in the peace accords.

D. Rural human settlements

45. The transfer of the rural human settlements, those communities populated by returning refugee and displaced person populations, to their current occupants remains one of the more complex unresolved issues of the peace accords. These returning populations, constituting 29 separate communities, resettled properties and built social and productive infrastructure on land in the former conflict zones. Legal mechanisms to facilitate the transfer of the properties to the communities have been established. However, it is foreseeable that there will be a few exceptional cases in which alternative solutions will have to be found.

46. Owing to both its legal complexity and political delicacy, the programme to transfer the rural human settlements has been subject to delays from the outset. These have not subsided. The transfer of property and infrastructure to the communities requires a number of steps, including land measurement, negotiations, payment and titling. While the price of a significant number of properties has been successfully negotiated with landowners, payment for properties was stalled for some months and the distribution of property titles has not begun. Of equal concern is the absence of any further progress in reaching agreement on the character of the legal conventions to be drawn up between the Government and the communities regarding social infrastructure, which is to be transferred from the communities to the competent bodies of the Salvadorian State, or the legal procedures for the transfer of the productive infrastructure.

47. Given the delays to date, the likelihood of more to come and the high proportion of legal complications in the properties pending transfer, it has been suggested that additional technical assistance from specialized legal organizations could help the process advance in a more timely manner. Possibilities of contracting such additional technical support should be seriously considered. An orderly and airtight solution to the legal status and transfer of properties is essential for the provision of security of tenure for these communities, but should be seen in the same terms as the discussion regarding the other beneficiaries of the PTT: a necessary, but not sufficient, condition for the future socio-economic development of this highly vulnerable sector of the population.

E. Wounded and war-disabled and relatives of fallen combatants

48. The peace accords specifically recommended that integral attention be provided to those wounded or disabled in the armed conflict, or those who had lost a family member as a consequence of the war. This population was established by a census carried out in 1993 as consisting of approximately 35,000 potential beneficiaries, the priority being an estimated 12,000 wounded

and disabled, those remaining being dependants of those killed in the conflict. Accordingly, there was subsequently created a Fund for the Protection of the Wounded and War-Disabled as a consequence of the Armed Conflict. By October 1996, the Fund had carried out 11,053 evaluations of applicants for disability benefits out of a total of 11,337 enumerated in the census. A number of programmes financed by the international community also sought to provide medical and other services to this population.

49. Verification has been complicated by the Fund's resistance to providing accurate and timely information regarding its beneficiaries, but there are a number of remaining issues. By April 1997, more than 4,000 relatives of combatants killed in action who had received some pension support were owed approximately 16 months of back pensions. Despite the Government's commitment to provide the Fund with the means to cover these overdue pensions, they still remain unpaid. Meanwhile, the most urgent challenge relates to those family members of combatants killed in the conflict who, owing to difficulties in obtaining the required legal documents, an understandable problem resulting from the character of the conflict, cannot qualify as eligible to receive benefits from the Fund.

50. After extended discussions during which the relevant institutional and political actors sought to identify potential solutions to this problem, the Government decided to promulgate a decree establishing a temporary legal mechanism which would extend special documentation facilitating access to pension benefits. By 30 April 1997, a document had been drafted, submitted to the Legislative Assembly and approved. However, examination of the decree indicates that it falls well short of addressing the urgency of the issue, in that it does not sufficiently simplify and speed up the complex, time-consuming and costly bureaucratic procedures that the relatives will still be subjected to in order to obtain all documents required. The Government has the responsibility to ensure that this vulnerable sector of the population receives its legitimate benefits; it would appear that the most efficient and economical way to do this is through the prompt revision of the pertinent articles of the recently approved decree.

VI. ELECTORAL MATTERS

51. An electoral system incapable of ensuring the peaceful access to power and the modernization of the political structure of the country has long been recognized as one of the principal causes of the Salvadorian conflict. Although the various elections that were held during the conflict represented a significant improvement over the electoral processes that had preceded them, deficiencies in the electoral system remained. The parties therefore included in the peace accords important, if limited, commitments aimed at overcoming these serious obstacles to the establishment of a truly democratic State. These included a recognition of the need for constitutional reforms to create the Supreme Electoral Tribunal to eliminate the distortions generated by the domination of any political party in the decision-making of the electoral authority.

52. The elections held in March 1994 were the first to follow the end of the armed conflict and to include the participation of FMLN as a political party. The observation of the process conducted by the electoral division of ONUSAL revealed the persistence of irregularities which provided further evidence of the serious deterioration of the electoral system. In the aftermath of the elections, President Calderón Sol installed an inter-party Commission to revise the electoral system. Its recommendations received the support of all the political parties. They called for provisions for people to be able to vote near their homes; the establishment of a new national civil register and the issuance of single identity and voting cards; and the administrative restructuring of the Supreme Electoral Tribunal. The Commission also recommended the introduction of proportional representation at the municipal level as a means of making local government more representative.

53. Unfortunately, these proposals were not put into practice in time for their benefits to be felt in the legislative and municipal elections of March 1997. Those elections were therefore conducted with the same deficiencies as those of 1994. Moreover, in the weeks prior to the elections the Legislative Assembly approved a series of contradictory reforms to the electoral code which highlighted the legal insecurity that characterizes the electoral system. The passivity of the Supreme Electoral Tribunal in the face of violations of the electoral code and changes to the electoral legislation in the midst of an electoral campaign underlined the urgent need for its restructuring and separation from the influence of political parties.

54. Following the elections, the President of the Republic called upon all the political forces of the country to implement the electoral reforms, a development that should prepare the way to reach the consensus necessary to make this possible. Similarly, it is to be hoped that the new political conditions that the March elections have given rise to will favour the adoption of electoral reforms in time for them to have a positive effect on the conduct of the presidential elections of 1999.

VII. TECHNICAL ASSISTANCE

55. The provision of appropriate technical assistance in support of the peace process, and in particular to strengthen the national institutions it created or reformed, assumed greater coherence as the peace process developed. UNDP, working in close collaboration with ONUSAL, MINUSAL and ONUV and in consultation with the beneficiary organizations, formulated and implemented priority technical assistance programmes in the areas of: administration of justice, public security, reintegration of former combatants and demobilized soldiers, the Fund for the Protection of the Wounded and War-Disabled, the protection of human rights through institutional support of the National Counsel for the Defence of Human Rights, and democratic participation.

56. Technical assistance programmes proposed by the Government and UNDP have been financed through loans and donations from Australia, Austria, Canada, Denmark, France, Germany, Italy, Japan, Mexico, the Netherlands, Norway, Spain, Sweden, Switzerland, Taiwan Province of China, the United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as

multilateral donors such as the Central American Bank for Economic Integration, the European Union, the Inter-American Development Bank, the International Bank for Reconstruction and Development and agencies and programmes of the United Nations system. In addition, human resources, such as specialized personnel from Brazil, Chile, France, Norway, Spain and the United States involved in the provision of advice and training to the National Civil Police, were contributed by a number of countries. While I should like to pay tribute to the level of coordination reached between the donors, a greater emphasis in this area would reap dividends in an improved coherence in international assistance to the peace process.

57. Despite the advances that have been registered in the processes of national reconstruction and development, on which I shall be submitting a separate report to the General Assembly pursuant to the request contained in Assembly resolution 50/58 C of 12 December 1995, the technical and financial assistance of the international community remains necessary. Without it, efforts to consolidate economic growth, further reconstruction, improve the living conditions of the poorest segment of the population, strengthen democracy and sustain democratic institutions would be severely hindered. I therefore encourage both the Government and donors to continue with implementation of the important programmes related to the peace process.

VIII. ADMINISTRATIVE ASPECTS

58. At the time of its establishment, on 1 January 1997, the support unit in El Salvador consisted of three international officials, one civilian police consultant, two local consultants and a small number of administrative staff. Throughout its mandate, the support unit has received administrative support, including in the disbursal of funds, from UNDP.

59. In adopting resolution 51/199, the General Assembly appropriated US$ 408,700 net of staff assessment ($476,900 gross) for the support unit in El Salvador for the period from 1 January and 30 June 1997. I should like to thank Denmark, the Netherlands, Norway and Sweden for their generous contributions for the Trust Fund for the Mission of the United Nations in El Salvador in support of United Nations activities in El Salvador.

IX. OBSERVATIONS AND RECOMMENDATIONS

60. Five years after the conclusion of the negotiations in far-ranging and ambitious peace agreements, an extraordinary transformation has taken place in El Salvador. The peace process has generated, in a slow but steady manner, conditions that provide the basis for the gradual consolidation of democracy within the country.

61. El Salvador has largely been demilitarized: the armed structure of FMLN has disappeared and its combatants have been reintegrated into civilian life; and the armed forces have been reduced and have respected the profound changes in their nature and role called for by the peace accords. But the most notable development has been that the peace process has also allowed for the opening-up

of space for democratic participation. A climate of tolerance prevails today, unlike any the country has known before. Since the signing of the peace agreements, no national sector has taken refuge in or supported violence as a form of political action.

62. In the recent elections of March 1997, the Salvadorian people, with exemplary civic maturity and despite the inadequate conditions provided by the electoral system, rejected the option of polarization and sent a clear message to those with political and economic power in the country: further advances in the country's transition will now depend on the strengthening of platforms of consensus to address issues of national concern. The equilibrium of political forces within the Legislative Assembly after the March elections should encourage the adoption of an approach similar to that which led to the successful conclusion of the negotiation process and to the assumption of new commitments to ensure that the benefits of democratization are available to all. It is to be hoped that the Legislative Assembly will be able to draw on the resources and avenues enshrined in the peace accords in this endeavour.

63. Indications of the reconciliation that was established in the Geneva Agreement as one of the objectives of the negotiations are to be seen on a daily basis. A climate of healthy political rivalry can be seen among political leaders who were once mortal enemies. However, reconciliation should also be extended to all other sectors of Salvadorian society. To say that there is a need to implement social policies that gradually reduce poverty and exclusion is to state the obvious. Reconciliation will rest on shaky foundations if the specific needs of the population that suffered the impact of the war most directly are not addressed directly. The measures contemplated for material and moral compensation for victims of violations of human rights, and for family members of combatants who were killed or remained missing in action, are an area of the pending accords that casts a particularly long shadow over the recognized successes of the process as a whole.

64. The development of the National Counsel for the Defence of Human Rights, the consolidation of the National Civil Police and the presence of an independent Supreme Court of Justice are major achievements. It is my hope that these institutions will be further strengthened so as to act as guarantors of the achievements that have been made and as instigators of compliance with those accords in which some aspects remain pending.

65. In this context, and in the interests of the continuing contribution of the United Nations to the full conclusion of one of the most successful processes with which the Organization has been involved, I should like to make a number of concrete recommendations, certain that the determination and political will demonstrated by the Salvadorian people throughout the process will assist in their implementation:

(a) The democratic public security model established in the peace accords should be constituted as the national policy of El Salvador. The model, with a democratic National Civil Police at its centre, should be robustly defended by the authorities as that which, in the context of full support of the rights and guarantees of the country's citizens, is the appropriate and effective instrument with which to confront the crime wave assailing the country;

(b) In the National Public Security Council the President of the Republic has a mechanism through which to oversee the transparent and law-abiding nature of a sector of extreme sensitivity for relations between the State and society. To this end, it is to be hoped that the Council will welcome initiatives, criticisms and proposals from members of civil society and their organizations. In concrete terms, the Council should continue in its efforts to encourage the faithful application of the legal framework of the National Civil Police and the strengthening of its mechanisms of internal control; promote closer coordination between the National Public Security Academy and the National Civil Police; encourage the prompt adoption of measures to allow for agents and officials of the National Civil Police to live among the civilian population; ensure that selection and recruitment policies provide the police body with suitable and professional personnel; and continue in its efforts to strengthen the capacity of the National Civil Police for investigation, especially of organized crime;

(c) A strong, professional and independent National Counsel for the Defence of Human Rights is of great benefit to the normal institutional functioning of the State. In this context, the resources invested in this institution will return dividends, not only internally, but also in the international perception of El Salvador as a country that is respectful of the law and relations between the State and society. The office of the National Counsel, for its part, should continue its efforts to consolidate itself as a nationwide institution. In particular, attention should be paid to its capacity for issuing and following up on resolutions and recommendations and making more frequent use of its right to present legislative proposals on issues related to its mandate;

(d) Public discontent with the administration of justice has been mounting. The weaknesses in this sector are a fundamental impediment to the consolidation of a truly democratic State. It is essential that the judicial authorities give a clear indication, which has been lacking so far, of their determination to introduce the necessary changes as soon as possible. Priority should be place upon the acceleration of the vetting of corrupt or ineffective judges and officials, the expedition of the processing of criminal cases and the introduction of special procedures in the struggle against organized crime. From an operational point of view, it is also to be hoped that the constitutional and legislative reforms that provide for the decentralization of the functions of the Supreme Court of Justice are approved promptly. The forthcoming implementation of the new criminal legislation will demand that judges, prosecutors and public defenders are adequately prepared in order to avoid making errors that could decrease the public's confidence in the system. In this context, care should be taken to ensure that police actions are undertaken in a manner that is coordinated with those of other actors engaged in the implementation of criminal justice, as the United Nations has recommended since the beginning of the peace process;

(e) The sustainability of the measures contained in the "minimal platform" of socio-economic commitments in the peace accords remains a central concern. In addition, there are a number of specific accords in the socio-economic area in which implementation is pending; scant progress has been made to achieve it during the last six months. While the land transfer programme (PTT) is nearing completion, the distribution of titles has slowed to a crawl and solutions have

yet to be found for the legal problems which have emerged regarding properties already transferred. I call upon all involved in its implementation to ensure that the PTT is brought to a close as swiftly as possible in order to provide security of tenure to all its beneficiaries. The lack of progress in the transfer of lands in excess of the constitutional limit of 245 hectares is also a cause of concern; it is to be hoped that the cooperation of the Salvadorian Institute for Agrarian Reforms (ISTA) and the political will required to address this delicate issue will be forthcoming. Flexibility and creativity will also be needed if substantial advances are to be made in the transfer of the rural human settlements, in which only a minimal level of progress has been made in recent months. I urge the Lands Bank, which now oversees implementation of this complex programme, to take steps to revitalize its efforts in this area in the months ahead. I should also like to express my concern at the difficulties encountered by the potential beneficiaries of the Fund for the Protection of the Wounded and War-Disabled in establishing their eligibility for benefits. While it is disappointing that the new legislative decree ostensibly designed to assist those beneficiaries who have been unable to furnish the requisite documentation to claim their benefits falls short of resolving the existing problem, it is to be hoped that appropriate adjustments can be made to it promptly;

(f) The approval and implementation of the electoral reforms proposed by the inter-party Commission appointed by President Calderón Sol is a fundamental requirement if the presidential elections to be held in 1999 are to take place within a transparent system that has the confidence of the electorate. Failure to move forward in this area would be a considerable blow to the democratization of the country;

(g) Finally, I should like to express my hope that the Salvadorian people do not forget the tragic experience of the past. Only those who acknowledge and come to grips with a terrible past can learn from it and ensure that it is never repeated as they move forward to build a new future for the generations to come. It is my understanding that the correlation of political forces that emerged from the recent elections may favour the implementation of measures of profound consequence for national reconciliation. To this end, I encourage the approval of legislation that would provide the victims of violations of human rights and their families with just compensation for their suffering. In order to contribute to the formation of a collective memory in which an appreciation of the value of peace and respect for human dignity are joined, consideration should be given to teaching schoolchildren about the years of conflict as part of the national educational curriculum, with the report of the Commission on the Truth being included as a work of reference of unquestionable importance to the history of El Salvador.

66. From the beginning of the peace process, the United Nations has been entrusted by the parties with the responsibility to verify full implementation of the peace accords. The assessment of the peace process contained within the present report indicates that implementation of the accords is at a sufficiently advanced stage to allow me to recommend, having regard to the current financial crisis of the United Nations and given the long duration of the political presence of the Organization in El Salvador, that the support unit for my envoy in El Salvador be closed down as a separate entity at the conclusion of its

current mandate on 30 June 1997. However, there are a number of accords, particularly in the socio-economic area, in which implementation has yet to be completed. I am therefore proposing to insert two international professionals and two local consultants as a unit under the administrative umbrella of UNDP, for a period of six months, to follow up on these outstanding elements of the peace accords. This staff, who would report to the Department of Political Affairs, but maintain a transparent relationship with the Resident Coordinator and UNDP, could be funded by existing monies within the Trust Fund for the Mission of the United Nations in El Salvador. The verification and good offices responsibilities of the Organization would continue to be carried out from New York.

67. With the proposed withdrawal of a separate political presence of the United Nations from El Salvador, I shall rely yet more fully on UNDP to maintain and strengthen its support of the consolidation of the peace process through the identification of assistance needs, the mobilization of resources from bilateral and multilateral donors and the execution and supervision of projects. I have every confidence that UNDP and the Resident Coordinator, as well as the other agencies, offices and programmes of the United Nations system active in El Salvador, will cooperate closely in the continuing efforts of the Organization in El Salvador.

68. In conclusion, I should like to pay tribute to the untiring efforts in the cause of peace of those men and women who have served with the United Nations in El Salvador. The dedication, energy and skill displayed by the Personal Representative of the Secretary-General, who mediated the negotiations, the various Special Representatives of the Secretary-General, heads of ONUSAL, MINUSAL and ONUV and their military, police and civilian staff, my envoy and the support unit have made an invaluable contribution to the restoration and consolidation of peace in El Salvador. While the United Nations system remains fully engaged in efforts to promote peace, freedom, democracy and development in El Salvador, I should like to take this opportunity to appeal to the international community, which has already contributed so much to the profound changes seen in El Salvador since the signing of the peace accords, to maintain its political, technical and financial support of the consolidation of the peace process in this new chapter of the country's history.